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Chapter 43.75. FISHERIES BUSINESS LICENSE AND TAXES

Article 01. TAXES AND LICENSES

Sec. 43.75.010. Fisheries business licenses. [Repealed, Sec. 13 ch 79 SLA 1979].

Repealed or Renumbered

Sec. 43.75.011. Fisheries business license.

(a) A person engaging or attempting to engage in a fisheries business or in an activity described in [AS 43.75.100](#) shall first apply for and obtain a license as provided in [AS 43.75.020](#).

(b) The commissioner may assess a civil penalty against a person required to have a license under (a) of this section who fails to obtain the license. The civil penalty for a violation of (a) of this section may not exceed \$5,000 the first time a civil penalty is assessed, \$10,000 for a second assessment, \$15,000 for a third assessment, \$20,000 for a fourth assessment, and \$25,000 for a fifth or subsequent assessment. The commissioner may not assess a person more than one civil penalty for a violation of (a) of this section in a 30-day period.

(c) Proceedings to suspend or revoke a license under AS 43.75.020(b)(3)(B) are governed by AS 44.62.

Sec. 43.75.015. Fisheries business tax.

(a) A person engaged in a fisheries business is liable for and shall pay the tax levied by this section on the value of each of the following fisheries resources processed during the year at the rate set out after each:

(1) salmon canned at a shore-based fisheries business - four and one-half percent;

(2) salmon processed by a shore-based fisheries business, except salmon for which the tax is due under (1) of this subsection, and all other fisheries resources processed by a shore-based fisheries business - three percent;

(3) fisheries resources processed by a floating fisheries business - five percent.

(b) Instead of the taxes levied by (a) of this section, a person who processes a

developing commercial fish species is liable for and shall pay a tax equal to

(1) one percent of the value of the developing commercial fish species processed by a shore-based fisheries business during the year; and

(2) three percent of the value of the developing commercial fish species processed by a floating fisheries business during the year.

(c) A person engaging or attempting to engage in a fisheries business who first actually and physically processes the fishery resource, or a person who purchases a fishery resource that is processed from a person excluded by [AS 43.75.017](#) from liability for the tax, is liable for and shall pay to the department the entire tax imposed by this section. In determining this tax liability, the person may deduct from the value of the fishery resources processed the value of fishery resources that are canned or processed for other fisheries businesses. A person taking the deduction authorized by this subsection shall report all information relating to the deduction in accordance with regulations adopted by the department.

(d) Instead of the taxes levied under (a) or (b) of this section, a person who processes a fishery resource under a direct marketing fisheries business license is liable for and shall pay a tax equal to

(1) one percent of the value of the developing commercial fish species processed during the year; and

(2) three percent of the value of a commercial fish species not subject to (1) of this subsection.

(e) For purposes of determining the value of a fishery resource on which a tax is levied under this section, the department may establish a presumption of market value for a fishery resource in a region or market area based on a volume weighted average of market values for the fishery resource reported on returns filed under this chapter by fisheries businesses operating in the region or market area. A taxpayer who appeals an assessment of taxes based on a presumption of market value determined by the department under this subsection may rebut the presumption with substantial evidence of

(1) the prevailing price paid to fishermen for the fishery resource of the same kind and quality by fisheries businesses in the same region or market area where the fishery resource was taken, if the taxpayer holds a direct marketing fisheries business license under AS 43.75.020(c) and the fishery resource on which the tax is levied is processed under that license; or

(2) the true market value of the fishery resources if the taking of the fishery resource

is done in a company-owned or company-subsidized boat operated by employees of a fisheries business, a subsidiary of the fisheries business, or a parent company of the fisheries business.

Sec. 43.75.017. Exclusion from fisheries business tax.

A person is not liable for the fisheries business tax under AS 43.75.015 when the fishery resource is processed aboard a fishing vessel if

- (1) the vessel is operated as a commercial fishing vessel under a valid commercial fishing license;
- (2) the fishery resource is not processed beyond heading, gutting or cleaning, freezing, and glazing;
- (3) the fishery resource was caught by the vessel; and
- (4) the fishery resource is sold to a fisheries business licensed under this chapter.

Sec. 43.75.018. Fisheries business education credit.

(a) For cash contributions accepted for direct instruction, research, and educational support purposes, including library and museum acquisitions and contributions to endowment, by an Alaska university foundation or by a nonprofit, public or private, Alaska two-year or four-year college accredited by a regional accreditation association, a person engaged in a fisheries business is allowed as a credit against the tax due under this chapter

- (1) 50 percent of contributions of not more than \$100,000; and
- (2) 100 percent of the next \$100,000 of contributions.

(b) *[Repealed, Sec. 12 ch 71 SLA 1991]*.

(c) Each public college and university shall include in its annual operating budget request contributions received and how the contributions were used.

(d) A contribution claimed as a credit under this section may not

(1) be claimed as a credit under another provision of this title; and

(2) when combined with credits taken during the taxpayer's tax year under [AS](#)

[21.89.070](#), 21.89.075, [AS 43.20.014](#), [AS 43.55.019](#), AS 43.56.018, [AS 43.65.018](#), or [AS 43.77.045](#), exceed \$150,000.

Sec. 43.75.019. Alaska veterans' memorial endowment fund contribution credit.
[Repealed, Sec. 25 ch 46 SLA 2002].

Repealed or Renumbered

Sec. 43.75.020. Application for license.

(a) Application for a license shall be filed with the department and accompanied by an annual fee of \$25. A separate annual fee is required for each plant specified in the application covered by the license. The application must contain the name of the applicant, the line of business to be licensed, place of business, and other facts that the department prescribes. The applicant shall state that the applicant, as a condition of obtaining and maintaining the license, agrees to pay

(1) the taxes levied under this title, and that the applicant will make a return and pay the taxes at the time provided by law;

(2) any seafood marketing assessment levied under AS 16.51;

(3) contributions imposed under AS 23.20 (Alaska Employment Security Act);

(4) any administrative penalties assessed under [AS 18.60.093](#) for a violation of a provision of [AS 18.60.010](#) - 18.60.105; and

(5) any applicable fishery sales, use, or severance taxes imposed by a municipality in the state.

(b) Upon receipt of an application in proper form under (a) or (c) of this section, accompanied by the annual fee, the department shall issue the license if the

(1) applicant has paid in full, including interest and penalties, the following:

(A) taxes levied under this title; and

(B) any assessments under AS 16.51;

(2) department has not received notification from the Department of Labor and Workforce Development that the applicant has failed to pay in full

(A) an assessment of delinquent contributions that is final under AS 23.20.205(c) or 23.20.220(c); or

(B) an administrative penalty that is final under [AS 18.60.093](#) or 18.60.097; and

(3) department has not received a copy of

(A) a final judgment obtained against the applicant for unpaid fishery sales, use, or severance taxes imposed by a municipality in the state; or

(B) a final administrative determination against the applicant from a municipality in the state for unpaid fishery sales, use, or severance taxes imposed by the municipality; the administrative determination must be accompanied by a certification by the municipality that the municipal administrative process is consistent with constitutional requirements of due process and that the applicant has exhausted all administrative remedies under the applicable municipal administrative process.

(c) Instead of a license issued under (a) of this section, the department may issue a direct marketing fisheries business license to a licensed commercial fisherman who processes fishery resources caught using a vessel that does not exceed 65 feet in overall length and is owned or leased by the commercial fisherman. The licensee may place into commerce in the state and outside of the state processed or unprocessed fishery resources caught using the vessel described in the license. Fishery resources that are caught using the vessel and owned by the licensee from the time of harvest through sale, as defined by the department by regulation, may be processed by the licensee on the vessel, at a shore-based facility, or by means of custom processing services obtained by the licensee. An application for a direct marketing fisheries business license shall be filed with the department and accompanied by an annual fee of \$25. A separate direct marketing fisheries business license and annual license fee are required for each vessel on which processing is performed. The application must state the name and address of the applicant, the fishery resources for which the applicant holds a commercial fishing entry permit or interim-use permit or quota share, a description of the vessel and each shore-based facility where the applicant will process fishery resources, and other information that the department prescribes by regulation. The application must state that the applicant, as a condition of obtaining and maintaining the license, agrees to pay the taxes, assessment, employment security contributions, and penalties as set out in (a)(1) - (5) of this section. A person who holds a direct marketing fisheries business license may not under that license (1) purchase fishery resources for resale or processing for sale; or (2) process fishery resources for another licensed commercial fisherman or for a fisheries business licensed under this chapter. In this subsection, "licensed commercial fisherman" means a natural person who holds a commercial fishing entry permit or interim-use permit issued under AS 16.43 or a quota share issued under federal law.

Sec. 43.75.030. Filing return and payment of tax.

(a) A person subject to the tax shall file a return stating the value of fisheries resources processed during the license year, computed as required by this chapter, and such other information as the department prescribes by regulation. The return must show the license number and must be signed by the taxpayer or an authorized agent, under penalty of unsworn falsification in the second degree. If a receiver, trustee, or assign is operating the property or business, that person shall file the return for the person. A tax due on the basis of such a return shall be collected in the same manner as if collected from the person of whose business the receiver, trustee, or assign has custody and control.

(b) The return shall be made on the basis of the calendar year to the department at Juneau before April 1 after the close of the calendar year.

(c) The department may adopt regulations for the granting of a reasonable extension of time for filing and may grant an extension of time for filing.

(d) Except for tax paid monthly under [AS 43.75.055](#) (c)(1), the tax shall be paid before April 1 after the close of the calendar year.

(e) Every person engaging or attempting to engage in a business for which a license is required under this chapter shall keep records, make statements under oath, file returns, and comply with all regulations that the commissioner may adopt.

(f) When the department considers it is necessary, it may require a person, by notice served upon the person, to file a return, make such statements under oath, or keep and display to it such records as it considers sufficient to show the tax for which the person is liable. If a person fails to file a return as prescribed by law or by regulation, or makes, wilfully or otherwise, a false or fraudulent return, the department shall make the return from the information that it can obtain. A return made by the department is prima facie good and sufficient for all legal purposes.

Sec. 43.75.032. Tax credit for scholarship contributions.

(a) A fisheries business is entitled to a credit of not more than five percent of the business tax liability under [AS 43.75.015](#) for contributions made during the tax year to the A. W. "Winn" Brindle memorial education loan account ([AS 14.43.250](#)). A tax credit under this section may not be approved for more than 100 percent of an education loan contribution.

(b) The department may not approve a tax credit under this section if the fisheries business claiming the credit is in arrears in the payment of a fisheries business tax under [AS 43.75.015](#); for purposes of this subsection, a taxpayer is not in arrears if the payment is under administrative or judicial appeal.

(c) The department shall prepare an application form for a credit under this section.

(d) The department shall approve or disapprove an application for a credit under this section not later than 60 days after receiving the application.

Sec. 43.75.034. Tax credit report. [Repealed, Sec. 8 ch 79 SLA 1986].

Repealed or Renumbered

Sec. 43.75.035. Salmon product development tax credit.

(a) A taxpayer that is a fisheries business may claim a salmon product development tax credit of 50 percent of qualified investment in new property first placed into service in a shore-based plant or on a vessel in the state in the tax year.

(b) The amount of the tax credit applied against taxes under this section may not

(1) exceed 50 percent of the taxpayer's tax liability incurred under this chapter for processing of salmon during the tax year; or

(2) be claimed for property first placed into service after December 31, 2008.

(c) If the property for which a tax credit is claimed is installed on a vessel, the amount of qualified investment under (a) of this section is determined by multiplying the investment cost of the qualified investment property by a fraction, the numerator of which is the weight of raw salmon processed on the vessel by the taxpayer in the state in the tax year in which the property is first placed into service, and the denominator of which is the weight of raw salmon processed on the vessel by the taxpayer in and outside of the state in the tax year in which the property is first placed into service.

(d) An unused credit under this section may be carried forward and applied against the tax liability incurred on salmon in the following three tax years.

(e) Qualified investment costs upon which a tax credit is claimed under this section may not be considered for another tax credit in this title. A tax credit applied under this section together with a tax credit applied under [AS 43.75.036](#) may not exceed 50 percent of the taxpayer's tax liability incurred for the processing of salmon during the tax year.

(f) A taxpayer may not claim the tax credit allowed under this section if the taxpayer is in arrears in the payment of assessments under [AS 16.51.120](#), contributions under AS 23.20, or taxes or assessments collected or owed under this title. For purposes of this subsection, a taxpayer is not in arrears if the liability for the assessment, contribution, or

tax is under administrative or judicial appeal.

(g) If, during a tax year, property for which a credit was claimed under this section is disposed of by the taxpayer, ceases to be qualified investment property, or is removed from service in the state, the tax due under this chapter is increased by the recapture percentage of the aggregate decrease in the credit allowed under this section for all prior tax years that would have resulted solely from reducing to zero the credit allowed for the qualified investment property under this section. The amount of tax credit attributable to the qualified investment that is carried forward from prior tax years is terminated as of the first day of the tax year in which the qualified investment property is disposed of by the taxpayer, ceases to be qualified investment property, or is removed from service in the state. For purposes of this subsection,

(1) the recapture percentage during the year in which the property is first placed into service or during the first year following the year in which the property is first placed into service is 100 percent;

(2) the recapture percentage during the second year following the year in which the property is first placed into service is 75 percent;

(3) the recapture percentage during the third year following the year in which the property is first placed into service is 50 percent;

(4) the recapture percentage during the fourth or subsequent year following the year in which the property is first placed into service is zero percent;

(5) qualified investment property used on a vessel is considered to have been removed from the state on the first day of a tax year in which the proportion of raw salmon processed in the state on the vessel is less than 50 percent of total weight of raw salmon processed on the vessel in and outside of the state.

(h) The amount of a tax credit recaptured under (g)(1) - (3) of this section may not be included in the determination of the amount of that tax credit that is allowable under this section or [AS 43.75.036](#).

(i) In this section,

(1) "first placed into service" means the moment when property is first used for its intended purpose;

(2) "new property" means property whose original use commences with the taxpayer and does not include property first used by another person;

(3) "qualified investment" means the investment cost in depreciable tangible personal property with a useful life of three years or more to be used predominantly to perform a processing, packaging, or product finishing function that is a significant component in producing value-added salmon products beyond gutting of the salmon; in this paragraph, "property"

(A) includes

(i) filleting, skinning, portioning, mincing, forming, extruding, stuffing, injecting, mixing, marinating, preserving, drying, smoking, brining, packaging, blast freezing, or pin bone removal equipment; and

(ii) new parts to convert an existing can seamer to pop-top can production;

(B) does not include

(i) vehicles, forklifts, conveyors, cranes, pumps, or other equipment used to transport salmon or salmon products, knives, gloves, tools, supplies and materials, equipment that is not processing, packaging, or product finishing equipment, or other equipment the use of which is incidental to the production, packaging, or finishing of value-added salmon products; or

(ii) the overhaul, retooling, or modification of new or existing property, except for new parts to convert an existing can seamer to pop-top can production;

(4) "tax liability" means the liability for all taxes under this chapter before all credits allowed by this chapter;

(5) "useful life" means the useful life of the property that is or would be applicable for purposes of depreciation;

(6) "value-added salmon product" means the product of a salmon that is processed beyond heading, gutting, or separation in a manner that materially enhances the value of the salmon product, such as shelf-stable, retort pouched, smoked, pickled, or filleted salmon, ikura, leather, or jerky; "value-added salmon product" does not include a salmon or salmon product that

(A) has been subjected to only one or more of heading, gutting, freezing, packaging, quality assurance practices, or value retention practices;

(B) is salmon skeins or other unprocessed salmon products whether fresh or frozen;

(C) is canned, except for salmon products in a pop-top can; or

(D) is produced out of the state.

Sec. 43.75.036. Salmon utilization tax credit.

(a) A taxpayer that is a fisheries business may claim a salmon utilization tax credit of 50 percent of the amount of the qualified expenditure in the state in the tax year for full utilization of salmon.

(b) The amount of the tax credit applied against taxes under this section may not

(1) exceed 50 percent of the taxpayer's tax liability incurred under this chapter for salmon during the tax year; or

(2) be claimed for property first placed into service, or for expenditures incurred, after December 31, 2005.

(c) If the tax credit is claimed for installation or operation of new equipment on a vessel, the amount of the qualified expenditure under (a) of this section is determined by multiplying the cost of the installation or operation of the equipment by a fraction, the numerator of which is the weight of raw salmon processed on the vessel by the taxpayer in the state in the tax year in which the equipment is first placed into service, and the denominator of which is the weight of raw salmon processed on the vessel by the taxpayer in and outside of the state in the tax year in which the equipment is first placed into service.

(d) An unused credit under this section may be carried forward and applied against the tax liability incurred on salmon in the following three tax years.

(e) Qualified expenditures for which a tax credit is claimed under this section may not be considered for another tax credit in this title. A tax credit applied under this section together with a tax credit applied under [AS 43.75.035](#) may not exceed 50 percent of the taxpayer's tax liability incurred for the processing of salmon during the tax year.

(f) A taxpayer may not claim the tax credit allowed under this section if the taxpayer is in arrears in the payment of assessments under [AS 16.51.120](#), contributions under AS 23.20, or taxes or assessments collected or owed under this title. For purposes of this subsection, a taxpayer is not in arrears if the liability for the assessment, contribution, or tax is under administrative or judicial appeal.

(g) If, during a tax year, equipment for which a credit was claimed under this section is disposed of by the taxpayer, ceases to be a qualified expenditure, or is removed from service in the state, the tax due under this chapter is increased by the recapture percentage

of the aggregate decrease in the credit allowed under this section for all prior tax years that would have resulted solely from reducing to zero the credit allowed for the qualified expenditure under this section. The amount of tax credit attributable to the qualified expenditure that is carried forward from prior tax years is terminated as of the first day of the tax year in which the equipment is disposed of by the taxpayer, ceases to be a qualified expenditure, or is removed from service in the state. For purposes of this subsection,

(1) the recapture percentage during the year in which the equipment is first placed into service or during the first year following the year in which the equipment is first placed into service is 100 percent;

(2) the recapture percentage during the second year following the year in which the equipment is first placed into service is 75 percent;

(3) the recapture percentage during the third year following the year in which the equipment is first placed into service is 50 percent;

(4) the recapture percentage during the fourth or subsequent year following the year in which the equipment is first placed into service is zero percent;

(5) equipment used on a vessel is considered to have been removed from the state on the first day of a tax year in which the proportion of raw salmon processed in the state on the vessel is less than 50 percent of total weight of raw salmon processed on the vessel in and outside of the state.

(h) The amount of a tax credit recaptured under (g)(1) - (3) of this section may not be included in the determination of the amount of that tax credit that is allowable under this section or [AS 43.75.035](#).

(i) In this section,

(1) "first placed into service" means the moment when equipment is first used for its intended purpose;

(2) "new equipment" means tangible, depreciable personal property with a useful life of three years or more whose original use commences with the taxpayer and does not include property first used by another person;

(3) "qualified expenditure" means

(A) the direct and incremental cost of the development, manufacture, or purchase of new equipment by a taxpayer to produce marketable products in the state using salmon

waste;

(B) reasonable custom processing or disposal fees paid to another fisheries business in the state that does not claim a credit under this section or [AS 43.75.035](#) and that produces marketable products from salmon waste, less the market value of the products produced for the taxpayer; or

(C) the direct and incremental cost of transporting salmon waste to a facility in the state that produces a marketable product from salmon waste;

(4) "tax liability" means the liability for all taxes under this chapter before all credits allowed by this chapter;

(5) "useful life" means the useful life of equipment that is or would be applicable for purposes of depreciation.

Sec. 43.75.050. Violations and penalties. [Repealed, Sec. 4 ch 94 SLA 1976; Sec. 3 ch 166 SLA 1976; Sec. 45, 46 ch 113 SLA 1980. For current law, see [AS 43.05.220](#) and 43.05.290].

Repealed or Renumbered

Sec. 43.75.055. Security for collection of taxes.

(a) An applicant for a license under this chapter shall, in or with the application, state under oath the amount of each of the products that the applicant expects to produce during the license year. The applicant shall further state the extent of lienable real property owned by the applicant in the state against which the tax may be collected and other information with respect to description, location, and value of the property that the department prescribes.

(b) Except as provided in (c) and (e) of this section, if the lienable value of the property is not equal to three times the amount of the tax for which the applicant will probably be liable under this section, the department may not issue the license until the applicant files with the department a surety bond approved by the attorney general in a penal sum equal to twice the probable amount of the tax for which the applicant will be liable, conditioned upon payment of the tax in full when due, with interest and penalties if not paid before delinquency.

(c) An applicant may elect to avoid the requirements of (a) and (b) of this section if the applicant

(1) files a report as prescribed by the department and pays the taxes due under this

chapter on or before the 15th day of the month following the month in which liability for the payment of the taxes was incurred;

(2) pays the taxes and assessments for which the applicant is liable under AS 16.51, AS 43.76, and AS 43.77 on or before the 15th day of the month following the month in which the liability for the payment of the taxes or assessments was incurred;

(3) remits to the department the taxes and assessments that the applicant is required to collect under AS 43.76 on or before the 15th day of the month following the month in which the taxes or assessments were required to be collected; and

(4) either

(A) files a bond in the amount of \$50,000; or

(B) provides the department with proof that the applicant is the owner of lienable real property in the state of a value of at least \$100,000.

(d) A bond filed under (c) of this section must be conditioned upon the payment of the taxes under (c)(1) of this section in full when due.

(e) The department may waive the bond requirement under (b) or (c) of this section if the applicant posts other security in the form of collateral acceptable to the department or prepays the estimated tax.

(f) An applicant that fails to pay amounts due under this section is subject to civil penalties set out under [AS 43.05.220](#).

(g) Real property, a surety bond, or other security being used to secure payment of the tax for the year preceding the application year may also be used to secure payment of the estimated tax for the application year if the security is acceptable to the department and the applicant has not failed to pay a tax under this chapter in a timely manner during any of the three years preceding the application year.

Sec. 43.75.060. - 43.75.095l Cold storage and other fish processors. [Repealed, Sec. 13 ch 79 SLA 1979].

Repealed or Renumbered

Article 02. FISHERIES PRODUCTS SOLD OUTSIDE TAXING JURISDICTION

Sec. 43.75.100. Tax imposed on taking of fishery resource.

(a) A person taking, purchasing, or otherwise acquiring a fishery resource that has not been subject to the tax imposed in AS 43.75.015 is subject to the tax levied in [AS 43.75.015](#) on the value of the fishery resource if the person

(1) transports the fishery resource to a point outside the taxing jurisdiction of the state for subsequent processing or sale outside the taxing jurisdiction of the state;

(2) sells the fishery resource outside the taxing jurisdiction of the state; or

(3) has the fishery resource processed by a fisheries business in the state.

(b) The rate of tax that shall be paid by a person whose liability for the tax is established by this section is the rate of tax that would have been due under [AS 43.75.015](#) if the fisheries business that first actually and physically processed the fish had been liable to pay the tax.

Sec. 43.75.110. Duty of taxpayer and payment of tax.

A person subject to taxes under [AS 43.75.100](#) shall make a return stating the value of fisheries resources taken, purchased, or otherwise acquired during the license year for sale to fisheries businesses outside of the taxing jurisdiction of the state computed as required by [AS 43.75.100](#), and other information to carry out the provisions of AS 43.75.100 as may be prescribed by the department. The return must contain the license number and must be signed by the taxpayer or an authorized agent, under penalty of unsworn falsification in the second degree. If a receiver, trustee, or assign is operating the property or business, that person shall make the return for the person. A tax due on the basis of such return shall be collected in the same manner as if collected from the person of whose business the receiver, trustee, or assign has custody and control. The requirements for time and place of payment of tax, and the obligation to keep records and make the records available to the commissioner are the same as those prescribed in AS 43.75.011 - 43.75.050.



Title 43. REVENUE AND TAXATION